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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,781	08/20/2001	Barry D. Rayment	3000BR	5449

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Rob Phillips
5487 Villa Lucia Court
Las Vegas, NV 89141

EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,781

Applicant(s)

RAYMENT, BARRY D.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10, 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (6,415,262).

Claim 1: Walker discloses a method for increasing business revenue including:

a first customer visit;

payment for services and/or goods received during the first visit;

payment of an additional sum of money;

a second customer visit; a refund of the additional sum;

and a predetermined discount for services or goods received during the second customer visit

(Fig. 5 thru Fig. 18; and below citations):

“(2) In accordance with the present invention, there are provided new and improved systems and methods that enable a business to provide a customer with a subscription to a product in order to encourage the customer to participate

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in transactions on a regular, frequent basis (e.g. once per week). The subscription provides the customer with a discounted price on the product defined by the subscription. The subscription also defines conditions that the customer has to meet in order to remain entitled to the discounted price. The conditions may include a subscription frequency and a subscription duration. The subscription frequency defines the length of time between required product purchases of the subscription. The subscription duration is the time during which the conditions defined by the subscription are imposed on the customer and during which the customer is provided with the subscription price for the product of the subscription. In some embodiments of the present invention, the customer may be penalized for failing to fulfill the conditions of the subscriptions. The penalty may be a charge of a monetary amount (col 3, lines 45-65).

(31) Referring to FIG. 12, a table 1200 represents an embodiment of the available subscriptions database 534 (FIG. 5). The table 1200 includes entries 1202, 1204, 1206, 1208, and 1210, each defining at an available subscription. It will be understood by those skilled in the art that the table 1200 may include any number of entries. The table 1200 also defines fields for each of the entries 1202, 1204, 1206, 1208 and 1210 which specify (i) a unique subscription identifier 1220, (ii) a deposit 1222 required to initiate the subscription, and (iii) a penalty 1224 imposed on a customer that does not successfully complete the subscription. A subscription identifier 1220 comprises a combination of a frequency identifier 820 (FIG. 8), a duration

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identifier 920 (FIG. 9) and a product identifier 620 (FIG. 6). Successfully completing a subscription comprises satisfying all of the conditions of the subscription during the duration of the subscription. The penalty defined by each subscription is the action to be taken if the customer does not successfully complete a subscription he is subscribed to. For example, entry 1202 indicates that the penalty associated with subscription "A3M-P1" consists of a retention of the deposit the customer had paid upon initiating the subscription (col 10, lines 15-37).

(47) If it is determined that the customer has indicated an acceptance of the offer (step 1535), the subscription is initiated (step 1540). Initiating a subscription may comprise storing (i) the subscription identifier of the offered subscription, (ii) the start time of the subscription, and/or (iii) the end time of the subscription, which may be based on the duration of the subscription (i.e. if the subscription duration is six months and the start time of the subscription is Jan. 1, 1999, the end time of the subscription is Jul. 1, 1999). The start time of the subscription may comprise (i) the time of acceptance of the subscription offer, (ii) the time of the first usage of the subscription price by the customer, or (iii) another time determined by the business. If the customer is currently purchasing a product to which he accepts a subscription, the subscription price may be applied to the current transaction or to the next purchase of the product by the customer. The step 1545 of initiating a subscription may further comprise charging any deposit

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associated with the subscription to the purchase total of the customer's current transaction (col 14, lines 45-65).

(65) In the embodiment where the customer had previously paid a deposit upon initiating a subscription, that deposit may be automatically applied to the renewed subscription upon the customer's acceptance of the renewal offer. Additionally, a monetary amount may be paid out to the customer upon the customer's acceptance of the offer. The monetary amount may be in the form of (i) a coupon for the monetary amount, usable for purchases at the business; (ii) a cash payment; (iii) a credit to a financial account associated with the customer; (iv) an increase of the deposit previously paid for by the customer; or (v) any combination thereof. Such a monetary amount may be paid out to the customer upon each renewal of the subscription (col 19, lines 34-46).

(66) If, in step 1820, the customer's response did not indicate an acceptance of the renewal offer, the customer's successfully completed subscription is terminated (step 1830). Terminating a successfully completed subscription may include setting the status of the subscription in the customer's record of the customer database 538 (FIG. 5) to "fulfilled." Terminating the subscription may also include returning to the customer any deposit he may have paid at the time of initiating or accepting the subscription. Returning the deposit may comprise, for example (i) paying a monetary amount to the customer that is not less than the amount of the deposit, or (ii) applying a discount or credit to a current purchase of the customer, wherein the discount or credited amount is

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not less than the deposit amount (col 19, lines 45-60).

[Claim] 49. The method of claim 48, wherein the first subscription has an associated first deposit that was paid by the customer at a time of initiating the first subscription, and wherein the offer for the second subscription includes a second deposit required to initiate the second subscription”.

Examiner notes that Walker’s deposit which is added onto the price of purchase of goods or service and allows the customer to receive discounts on future visits where the deposit can also be returned to the customer for cash is equivalent to the Applicant’s payment as described in the Applicant’s claim 1.

Claim 2: Walker discloses the method as defined in claim 1 wherein the customer receives proof of payment of the additional sum of money and presents said proof during the second visit (col 19, lines 34-60; col 4, line 65-col 5, line 20).

Claim 3: Walker discloses the method as defined in claim 1 wherein a computer processor tracks customer information of the customers participating in the method (col 1, lines 45-60).

Claim 4: Walker discloses the method as defined in claim 1 wherein the business is a restaurant (col 2, lines 12-20; col 4, lines 1-10).

Claim 5: Walker discloses the method as defined in claim 1 wherein the predetermined discount is based on the amount of the payment for services or goods received during the first visit (Fig. 6).

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Claim 7: Walker discloses the method as defined in claim 1 wherein the additional sum of money is based on the amount of the payment for services or goods received during the first visit (Fig. 6).

Claims 8, 12: The method as defined in claim 1 wherein the business retains the additional sum of money when no second customer visit occurs within a pre-defined time limit (col 10, lines 15-37; col 14, lines 45-65).

Claim 9: Walker discloses the method as defined in claim 1 wherein the additional sum of money is paid during each subsequent visit permitting the customer to receive predetermined discounts on each subsequent visit ([Claim] 49; Fig. 5; col 10, lines 15-37; col 14, lines 45-65). Also, note in Walker that the expiration date can be set such that the customer will have to repay a deposit for each subsequent discount/subscription.

Claim 10: Walker discloses the method as defined in claim 9 wherein the predetermined discount increases with the payment of each subsequent additional sum of money:

“(ii) applying a discount or credit to a current purchase of the customer, wherein the discount or credited amount is not less than the deposit amount (col 19, lines 45-60).

[Claim] 50. The method of claim 49, wherein the second deposit is greater than the first deposit.”

Notice in Walker that the deposit amount increases and that the discount is not less than the deposit amount. Therefore, the discounts amount also increases.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 6, 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (6,415,262).

Claim 6: Walker discloses the method as defined in claim 1.

Walker does not explicitly disclose that the additional sum of money is predetermined in the range of \$5.00 to \$25.00.

However, Walker discloses a range of additional sums of money (Fig. 12, 'Deposit').

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Walker's deposit can be in a range of monetary amounts. One would have been motivated to do this in order to provide appropriate or optimal deposit amounts.

Claim 11: Walker discloses the method as defined in claim 9. Walker does not explicitly disclose wherein the additional sum of money paid decreases during each customer visit.

However, Walker discloses increasing the deposit amount (Claim 50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that since Walker can adjust the deposit amount over time or visits that Walker can also decrease the deposit amount. One would have been motivated to do this in order to optimal deposit amounts or deposit amounts that are of interest to the user.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a) Solomon (6,847,935) discloses providing rebates and benefits;
- b) Walker (2002/0161670) discloses providing gift certificates and discounts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran
Primary Examiner
1/25/2006